



Amy G. Rabinowitz
Counsel

December 9, 2003

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Default Service Adjustment Provision; M.D.T.E. No. 1062-B, D.T.E. 03-122

Dear Secretary Cottrell:

On behalf of Massachusetts Electric Company and Nantucket Electric Company (collectively "Company"), I am responding to the comments submitted by the Union of Concerned Scientists, Massachusetts Public Interest Research Group, Clean Water Action, and Conservation Law Foundation (collectively "Joint Commenters") and The Energy Consortium ("TEC") regarding the Default Service Adjustment Provision that the Company has filed for Department approval. If approved, this tariff will enable the Company to recover payments to Default Service suppliers, including the Independent System Operator-New England ("ISO-NE") for procuring Default Service power, and the cost of acquiring renewable energy certificates ("RECs") or the remittance of Alternate Compliance Payments ("ACPs") to comply with the renewable portfolio standards ("RPS") established in Mass. Gen. Laws c. 25A, § 11F and 220 C.M.R. 14.00 et seq.

Joint Commenters

The Joint Commenters comments focus on the Company's inclusion of RPS costs in the Default Service Adjustment Provision. They recommend that the tariff be revised to specifically require the Company to prove to the satisfaction of the Department by a preponderance of all available evidence that it has undergone a thorough effort to identify and secure the lowest cost certificates available. Joint Commenters comments, p. 4. They further recommend that distribution companies be required to seek pre-approval from the Department prior to collecting any RPS costs, demonstrating that they have made thorough efforts to secure less expensive RECs in the long-term and short-term markets, with a rebuttable presumption that less expensive options are available. Id. Finally, they recommend that RPS-obligated companies be required to examine the costs and benefits of long-term procurement of RECs, in order to help develop renewable energy. Id.

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As the Joint Commenters note, the issues that they are now raising they already raised in D.T.E. 02-40. Indeed, the Department has already ruled on these issues, declining to specify any RPS compliance strategy, and specifically stating that it would not require distribution companies to enter into long-term contracts for renewable resources. D.T.E. 02-40-B, pp. 45-46. The Department did state its intention to review filings to ensure that distribution companies take appropriate steps to minimize RPS compliance costs. Id. In fact, the Department is already doing this as part of its review of the Company's default service solicitations.

In D.T.E. 02-40-B, the Department stated that it is appropriate to include RPS compliance in default service prices. Id. at p. 17. The Company's proposed revision to its Default Service Adjustment Provision is merely a procedural step to follow through on that stated policy objective.

In fact, the Company agrees with the Joint Commenters on the goal of achieving RPS compliance at the lowest possible cost. The Company filed its plan for complying with RPS at the lowest possible cost with the Department on November 1, 2002. For your convenience, I am attaching a copy to this letter. Briefly, pursuant to this plan, during each default service solicitation, the Company has sought bids both inclusive and exclusive of RPS compliance. The Company evaluates each bid, and determines whether the price adder for RPS compliance is appropriate. If the cost is at or near the ACP price, the Company declines, and attempts to purchase RPS through a separate solicitation. In its filings to the Department setting forth the results of default service bid solicitations, the Company has shown what bidders have quoted for RPS compliance, and what the Company has accepted.

Thus, the Company recommends that the Department not accept the recommendations of the Joint Commenters, for the reasons set forth above.

The Energy Consortium

TEC objects to the proposed Default Service Adjustment Provision, because it is a charge assessed to all customers, and it is unfair to make customers who purchase competitive supply pay for default service. This issue was addressed in D.T.E. 99-60-C, however, and, like the Joint Commenters' issues, is moot. In D.T.E. 99-60-C, the Department noted that default service acts as insurance for all customers who enter the competitive market and assures that all customers who move to a new service territory will have service. D.T.E. 99-60-C, p. 13. Thus, the Department concluded, it is appropriate for default service cost reconciliation to be spread among all customers. Id. Accordingly, the Company also recommends that the Department not accept TEC's recommendation.

Mary L. Cottrell, Secretary

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Thank you very much for the opportunity to provide these comments. Please feel free to contact me if you require additional information.

Very truly yours,

Amy G. Rabinowitz

cc: Jeanne Voveris, Hearing Officer
Joe Rogers, Office of the Attorney General
Roger Borghesani
Deborah Donovan
Frank Gorke
Cindy Luppi
Seth Kaplan



Amy G. Rabinowitz
Counsel

November 1, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Renewable Energy Portfolio Compliance Plan; D.T.E. 99-60 and 00-67

Dear Secretary Cottrell:

On behalf of Massachusetts Electric Company and Nantucket Electric Company (collectively "Companies"), I am enclosing for filing the Companies' plan for complying with the renewable portfolio standard ("RPS") established in M.G.L. c. 25A, § 11F and 225 C.M.R. 14.00. This plan encompasses both the Companies' standard offer and default service loads. In addition, I am enclosing revised tariffs (both marked to show changes and clean versions) for the Companies' Standard Service Cost Adjustment Provision and Default Service Adjustment Provision. The Companies have revised these tariffs to include the estimated costs of complying with RPS. The Companies respectfully request approval of these revised tariffs.

For standard offer service, the Companies propose to include the estimated cost of RPS compliance in the Standard Offer Service Fuel Adjustment ("SOSFA") factor. Recovery through the SOSFA factor reflects the fact that RPS compliance increases the commodity costs for standard offer service above the base cost of standard offer procurement. Any difference between the revenue received from standard offer customers and the actual cost of procuring standard offer service, including those of RPS compliance, will flow through the Companies' standard offer reconciliation, and, upon Department approval, be reflected in the Standard Offer Adjustment Factor. Any incremental charge to the SOSFA relating to RPS compliance would fall outside of the mandatory rate reductions required under the Restructuring Act of 1997.

For default service, the Companies propose to include the costs of compliance in the default service rates charged to their default service customers. The rates will initially reflect the Companies' purchased power costs including their estimated costs of RPS compliance. Any difference between the revenue received from default service customers and the actual cost of procuring default service, including the cost of RPS compliance, will flow through the Companies' default service reconciliation and, upon approval of the Department, be reflected in the Companies' Default Service Adjustment Factor.

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Mary L. Cottrell, Secretary
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Thank you very much for your time and attention to this matter.

Very truly yours,

Amy G. Rabinowitz

cc: Service Lists, D.T.E. 99-60 and 00-67

**Massachusetts Electric Company
Nantucket Electric Company
Renewable Energy Portfolio Compliance Plan**

BACKGROUND

The Electricity Restructuring Act of 1997 (the “Act”) established a requirement to foster the development of new renewable energy sources through implementation of the Renewable Portfolio Standard (“RPS”) (M.G.L. ch. 25A, § 11F). The Act requires, beginning in 2003, all retail electricity suppliers to source a minimum portion of their resources from new renewable energy resources. In 2002, the Massachusetts Division of Energy Resources (“DOER”) issued final regulations (225 CMR 14.00) implementing these requirements. For 2003, all retail electricity suppliers are required to demonstrate that at least 1% of their generation supply resources are provided from new renewable energy resources. Retail electricity suppliers may satisfy this requirement by providing attribute certificates from the New England Generation Information System (“NE-GIS”), contracting for the output of new renewable energy resources, or making an Alternative Compliance Payment (“ACP”) to the Massachusetts Technology Park Corporation. The ACP rate in 2003 is \$50 per MWh, and in subsequent years is equal to the previous year’s rate adjusted up or down according to the previous year’s consumer price index.

Massachusetts Electric Company and Nantucket Electric Company (together the “Companies”) are subject to the RPS requirement relating to the supply for both their Standard Offer and Default Service customers. The Companies estimate their RPS requirement for calendar year 2003 sales to be 173,000 RPS certificates.¹ Assuming this requirement is met entirely through ACPs, this would result in a compliance cost of \$8.65 million for the year.²

The DOER has provided a list of the generating facilities that have been certified to meet the new renewable energy resource requirement. As of October 8, 2002, 15 facilities have been approved with a combined nameplate capacity of 100 MW. The actual number of usable RPS Certificates from these facilities would vary depending upon actual plant performance. Based on the most recent Energy Information Administration data, the Companies estimate that the total Massachusetts certificate requirements are 425,000 for calendar year 2003, and that the requirement for certificates will probably exceed the number of certificates produced and available for purchase.³

¹ Based on total Standard Offer and Default Service load for the 12-month period ending June 30, 2002 of 17.3 million MWh.

² This figure does not include any costs charged to the Companies by ISO New England for the Companies’ share of supporting the NE-GIS.

³ Several of the 15 facilities approved by the DOER are not yet constructed and may not be constructed in 2003. In addition, over half of the approved generation is from two facilities that have operated at only a 10% capacity factor during the past 10 years. Should all 100 MW of certified generation operate at 85% capacity factor for a one year period, the number of RPS certificates created would be approximately 714,000. Should the two largest facilities operate at their historical production level, the number of RPS certificates created would only be approximately 360,000. In addition, generating facilities that create

COMPLIANCE ELEMENTS

Since the Companies do not purchase unit specific power to meet their Standard Offer or Default Service requirements, they will purchase RPS certificates and remit ACPs, if necessary, to comply with the RPS requirements.

The form of RPS certificates that may be purchased includes:

- Certificates that have been issued by the NE-GIS during the current active trading session. These certificates will be issued by the NE-GIS from the final, reported production data of RPS certified facilities. As a result the number of available certificates is firm and known.
- Certificates from the future production of an RPS certified facility. These certificates can either be on a firm or unit-contingent basis. With a firm purchase, the seller would be responsible for delivering a fixed number of certificates regardless of actual plant output. A unit-contingent purchase would be based on actual plant output and the number of certificates purchased would be unknown until after final, reported data is available for the specified facility.

PROCUREMENT PROCESS

Due to the different procurement methods for Standard Offer and Default Service, the Companies will procure their RPS requirements for each of these services separately.

Standard Offer

The Companies propose to use several market-based strategies to meet their RPS requirements associated with Standard Offer.

The primary method the Companies will use is a Request for Proposals (“RFP”) process. From time to time, the Companies or their agent will issue a RFP to purchase RPS compliant certificates. In evaluating responses to these RFPs, the Companies will consider their outstanding needs and the offers submitted. The Companies will reject any offers that are at or above the ACP. The Companies will retain the discretion to reject some or all bids below the ACP, and will purchase certificates relating to offers that have not been rejected.

Before, between and after their RFPs, the Companies may receive unsolicited offers to purchase RPS certificates. The Companies will review their outstanding needs

Massachusetts RPS certificates also qualify for other New England states renewable requirements; therefore, the output of these facilities could be sold to meet requirements in other states and thus not be sold/available for purchase against Massachusetts’ requirements.

to determine if additional certificates are required for compliance. If the Companies determine the purchase of additional certificates is needed, they will review the offers to determine whether the price and terms of purchase are acceptable. In reviewing the price, the Companies plan to use the results of their most recent RFP, published market information, offers to sell or purchase on the NE-GIS bulletin board, pricing provided by various brokers, and other sources of market intelligence to establish a market price. The Companies will compare this market price to the offer price, and in their discretion may purchase certificates that the Companies believe are reflective of the then current market price. The Companies reserve their right to reject any and all offers.

Before, between and after their RFPs, the Companies may also receive/make offers from/to the broker market for the purchase of certificates. Sellers may use the broker market because they may be unwilling to participate in the RFP process, believe that the broker has access to a larger group of customers, or desire to remain anonymous when making offers to sell. The Companies will review their outstanding needs to determine if additional certificates are required for compliance and if the offer is reflective of the then current market price. The Companies reserve their right to reject any and all offers. The Companies may purchase those certificates that the Companies believe are reflective of the then current market price.

The Companies will attempt to procure enough certificates to meet their RPS requirements relating to Standard Offer. To the extent the Companies are able to procure more than their Standard Offer RPS requirements through the above process and have not fully met their Default Service RPS requirement, the Companies will utilize the above process to procure additional RPS certificates for Default Service.

To the extent the Companies are not able to fully meet their Standard Offer and Default Service RPS requirements through the above process, the Companies will make an ACP for each RPS requirement for which they have not purchased a certificate.

Default Service

Under current regulations, the Companies procure their Default Service requirements through competitive solicitations every six months. In future solicitations, the Companies will seek to include the RPS compliance obligation as part of the winning suppliers' responsibility.

All solicitations will request that bidders provide Default Service prices excluding the RPS compliance and alternate prices including RPS compliance.⁴ The Companies will evaluate the bids and determine the lowest cost supply including the RPS compliance. Before committing to this purchase, the Companies will evaluate the winning supplier's (or suppliers') price adder for providing RPS compliant service. If the cost is at or near the ACP cost, the Companies may procure the non-RPS compliant

⁴ For these solicitations, RPS compliance means transferring to the Companies sufficient RPS certificates attributable to the load served by the supplier multiplied by the applicable RPS percentage for the year of service.

Default Service and attempt to purchase RPS certificates at a lower cost through a separate solicitation (as described in detail in below). This will provide the Companies with an opportunity to meet the RPS requirements at a lower cost to customers.

Any RPS requirements not provided by Default Service supplier(s) will first be met with RPS certificates purchased by the Companies that exceed the Companies Standard Offer requirements (as described above). To the extent the Companies are unable to obtain sufficient RPS certificates to meet their RPS requirements, they will make ACPs for the unmet requirements.

The Companies believe that the process outlined above will allow them to comply with the RPS requirements at a reasonable cost to their Standard Offer and Default Service customers. Each purchase of a certificate will be at market, though prices will vary over time by supplier and offer (in all cases, however, the purchase price would not exceed the ACP). By purchasing certificates from a mix of suppliers at different times, the Companies can take advantage of dollar cost averaging to reduce price volatility to its customers, with an opportunity to deliver lower compliance costs.

COST RECOVERY

The Companies will incur costs in administering the RPS, including direct purchase costs of certificates, broker fees, option costs, other costs associated with the procurement of RPS certificates and program implementation, and any ACPs paid to the Massachusetts Technology Park Corporation.

Subject to Department approval, for Default Service, the Companies propose to include the costs of compliance in the Default Service rates charged to their Default Service customers. The rates will initially reflect the Companies' purchased power costs including their estimated costs of RPS compliance. Any difference between the revenue received from Default Service customers and the actual cost of procuring Default Service, including the cost of RPS compliance, will flow through the Companies' Default Service reconciliation and, upon approval of the Department, be reflected in the Companies' Default Service Adjustment Factor.

Also subject to Department approval, for Standard Offer service, the Companies propose to include the estimated cost of RPS compliance in the Standard Offer Service Fuel Adjustment ("SOSFA") factor that they file for January 1, 2003. Recovery through the SOSFA factor reflects the fact that RPS compliance increases the commodity costs for standard offer service above the base cost of standard offer procurement. Any difference between the revenue received from Standard Offer customers and the actual cost of procuring Standard Offer service, including those of RPS compliance, will flow through the Companies' Standard Offer reconciliation, and, upon Department approval, be reflected in the Standard Offer Adjustment Factor. Any incremental charge to the SOSFA relating to RPS compliance would also fall outside of the mandatory rate reductions required under the Act.

The recovery of the cost of RPS compliance discussed above necessitates a revision to two of the Companies' tariff provisions: M.D.T.E. No. 981-A, Standard Service Cost Adjustment Provision⁵, and M.D.T.E. No. 987-A, Default Service Adjustment Provision⁶. As part of this compliance report, the Companies are requesting the Department to approve the proposed revisions to these tariff provisions to allow for the recovery of the cost of compliance. Both a clean version of each proposed tariff provision as well as a version that is marked to show changes accompany this compliance report. The tariff changes extend beyond allowing for the recovery of RPS compliance costs and include other payments to Standard Offer Service or Default Service suppliers for procuring power, compliance with future statutes or regulations which may confer an obligation on the Companies that are directly related to providing Standard Offer Service or Default Service, and any other costs reasonably incurred for such service as may be approved by the Department.

⁵ M.D.T.E. No 981-A is the currently effective provision for Massachusetts Electric Company. The comparable provision for Nantucket Electric Company is M.D.T.E. No. 423.

⁶ M.D.T.E. No 987-A is the currently effective provision for Massachusetts Electric Company. The comparable provision for Nantucket Electric Company is M.D.T.E. No. 424.